

**REMARKS**

This Amendment is responsive to the Office Action dated May 17, 2004.

Claims 1-16 were pending in the application. In the Office Action, claims 1-16 were rejected. In this Amendment, claims 1, 5, 9 and 13 have been amended. Claims 1-16 thus remain for consideration.

Applicants submit that the application is now in condition for allowance and request reconsideration and withdrawal of the rejections in light of the following remarks.

§102 and §103 Rejections

Claims 1-3, 5-7, 9-11 and 13-15 were rejected under 35 U.S.C. §102(e) as being anticipated by Nagasawa (U.S. Patent No. 6,591,057).

Claims 4, 8, 10 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nagasawa.

Applicants respectfully submit that the independent claims (claims 1, 5, 9 and 13) are patentable over Nagasawa.

Applicants' invention as recited in the independent claims is directed toward a method and apparatus for transmitting digital data packets. Each of the claims recites that data indicative of a transfer mode or timing mode is inserted into a payload area of a packet to be transmitted. Each of the claims further recites that "the position within said payload area where said data indicative of said [timing mode or transfer mode] is inserted is based on both [said] timing mode and [said] transfer mode of said

transmission packet.” Supporting disclosure for the “positioning” feature of Applicants’ invention can be found in the specification at, for example, page 30, line 11 – page 34, line 11.

Nagasawa fails to disclose Applicants’ positioning feature. Accordingly, Applicants believe that claims 1, 5, 9 and 13 are patentable over Nagasawa on at least this basis.

Claims 2-4 depend on claim 1. Since claim 1 is believed to be patentable over Nagasawa, claims 2-4 are believed to be patentable over Nagasawa based at least on their dependency on claim 1.

Claims 6-8 depend on claim 5. Since claim 5 is believed to be patentable over Nagasawa, claims 6-8 are believed to be patentable over Nagasawa based at least on their dependency on claim 5.

Claims 10-12 depend on claim 9. Since claim 9 is believed to be patentable over Nagasawa, claims 10-12 are believed to be patentable over Nagasawa based at least on their dependency on claim 9.

Claims 14-16 depend on claim 13. Since claim 13 is believed to be patentable over Nagasawa, claims 14-16 are believed to be patentable over Nagasawa based at least on their dependency on claim 13.

Applicants respectfully submit that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited.

It is submitted that these claims, as originally presented, are patentably

distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicants' undersigned attorney and, in the event that the Examiner disagrees with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

If any issues remain, or if the Examiner has any further suggestions, he/she is invited to call the undersigned at the telephone number provided below.


The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 50-0320.

The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,

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